IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.4937 OF 2006

WITH

CIVIL APPLICATION NO.221 OF 2006

AND

CIVIL APPLICATION (STAMP) NO.4941 OF 2006

Kismatunissa Mohammad Hanif ...Appellant

Versus

Kamal Beig Dawood Beig ...Respondent

.....

Mr.Sudhir Prabhu for Appellant.

Mr.G.J.Sabnis for Respondent.

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CORAM: A.M.KHANWILKAR, J.

MARCH 21, 2006.

P.C.

1. The Appeal from Order and the accompanying Civil Applications are disposed of by this common order.

2. The Appeal from Order has been filed

essentially questioning the correctness of the opinion recorded in Para 19 of the impugned order. In the Application, it is stated that the Applicant realised the necessity of challenging this finding recorded in the impugned order and was advised to do so by his Advocate only when preparation for hearing of the case was undertaken. For this limited purpose, the Appellant has approached this Court, though there has been delay of about 270 days.

3. Counsel for the Respondent submits that as the matter has been remanded to the Trial Court, the Trial Court be allowed to decide all the issues arising between the parties on its own merits in accordance with law uninfluenced by any observations made by the Appellate Court in the impugned Judgment including in Para 19 thereof.

4. While accepting this submission of the Respondent, the Trial Court is directed to decide all issues on its own merits in accordance with law, uninfluenced by any observations in the impugned Judgment of the Appellate Court including

Para 19 thereof.

5. Appeal from Order and the accompanying Applications disposed of on the above terms.

A.M.KHANWILKAR, J.